

# Advisory Opinion

IECDB AO 2007-04

June 28, 2007

Karlyn Dalsing  
Department of Inspections & Appeals  
kadalsing@hotmail.com

Dear Ms. Dalsing:

This opinion is in response to your email letter of March 22, 2007, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board pursuant to Iowa Code section 68B.32A(11) and Board rule 351—1.2. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

## FACTUAL STATEMENT:

You request this opinion in your capacity as an employee of the Iowa Racing and Gaming Commission (IRGC), a regulatory agency within the Department of Inspections and Appeals (DIA). You advise us that Riverside Casino and Golf Resort, LLC (Riverside) received its operating license in 2005 and that you did not take part in the decision to authorize the license. You are now interested in accepting employment with Riverside an internal auditor/compliance position. You would be working with an IRGC gaming representative, reviewing staff compliance matters, and in the submission of casino internal controls/rules for IRGC review. You do not anticipate engaging in lobbying activities.

## QUESTION:

Is it permissible for you to accept employment with Riverside Casino and Golf Resort, LLC within two years of leaving employment with the Iowa Racing and Gaming Commission?

## OPINION:

Two sections of the state code of ethics in Iowa Code chapter 68B and the Board's administrative rules in 351—Chapter 6 address post state employment issues. First, Iowa Code section 68B.5A bans certain lobbying activities for two years after leaving

state government. Since your proposed employment does not seem to involve lobbying, that statute would not apply.<sup>1</sup>

Iowa Code section 68B.7 prohibits you from engaging in certain activities for two years after leaving state government. That statute prohibits you from appearing before your former agency or receiving compensation for “any services rendered on behalf of any person, firm, corporation, or association in relation to any case, proceeding, or application” you were “directly concerned and personally participated” during state service.

For two years you could not on behalf of Riverside appear before DIA or receive compensation from Riverside in relation to any “case, proceeding, or application” involving Riverside that you were “directly concerned and personally participated” in while employed at DIA. Thus, so long as your employment with Riverside did not involve any “case, proceeding, or application” that you were “directly concerned and personally participated” during your employment with IRGC and DIA, you would not be restricted in your employment with Riverside.

In closing, if you do accept the employment the Board invites you to seek additional guidance if you have questions about a specific factual situation involving Riverside and your former agency to ensure that it would not involve an impermissible “case, proceeding, or application” that you were “directly concerned and personally participated” during state employment.

#### BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair  
Janet Carl, Vice Chair  
Gerald Sullivan  
Betsy Roe  
John Walsh  
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

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<sup>1</sup>See Iowa Code section 68B.2(13) and Board rules 351—8.1 through 8.3 for the definitions of “lobbyist” and “lobbying.”